IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO. 93 OF 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DEVNATH SARJUPRASAD YADAV - Applicant(s)

Versus

KRISHNA DANDPANI BEHRA - Opponent(s)

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Appearance :
MR. K.K. TRIVEDI for Applicant.
MR. T.S. NANAVATI for Opponent.
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 16/08/2005

ORAL JUDGMENT

1. After hearing the learned Counsel for the parties, this Court is of the considered opinion that present is not a case where this Court should interfere under Section-115 of the Code

of Civil Procedure. The trial Court rejected the application for grant of injunction, while the Appellate Court, exercising its jurisdiction under Order-43, Rule-1(r) of the Code of Civil Procedure, read with Section-29 of the Bombay Rents Hotel & Lodging House Rates Control Act, 1947 ("the Rent Act"), granted mandatory injunction in favour of the tenant, directing the applicant/defendant/landlord to handover the possession of the suit premises to the tenant, who, according to the tenant/plaintiff, was unceremoniously dispossessed from the premises. The Appellate Court has given cogent reasons for issuing such an order. In the opinion of this Court unless a perversity is shown in the order or in the approach of the learned Appellate Court, interference under Section-115 of the Code of Civil Procedure is not permissible.

2. After going through the order passed by the Appellate Court, I am unable to find any such perversity. I refuse to interfere in the matter.

3. Learned Counsel for the applicant, at this stage, makes a submission that the suit is pending before the trial Court for more than 10 years, therefore, under the circumstances, a direction be issued to the trial Court for early disposal of the suit. He submits that in view of the direction issued by the Appellate Court, the possession has been handed over to the

tenant/plaintiff and the facts, therefore, require the suit to be disposed of at its earliest.

4. Taking into consideration the long pendency of the matter, it is hereby directed that the trial Court shall dispose of the suit within six months from the date of appearance of the parties. The Revision Petition is accordingly disposed of. The records, which have been requisitioned by this Court, be sent back to the trial Court immediately so as to reach the said Court within a week. It certainly goes without saying that any of the observations made by this Court relating to the merit of the present revision, has nothing to do with the merits of the matter, which are yet to be considered by the trial Court. Rule is discharged. No costs.

[***R.S.Garg, J.***]

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